



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/770,617	02/02/2004	Wolfgang Eis	AMB-131-02	2301

24131 7590 08/06/2007

LERNER GREENBERG STEMER LLP  
P O BOX 2480  
HOLLYWOOD, FL 33022-2480

EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 08/06/2007

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliant Appeal Brief  
(37 CFR 41.37)**

Application No.

10/770,617

Applicant(s)

EIS ET AL.

Examiner

John Hoffmann

Art Unit

1731

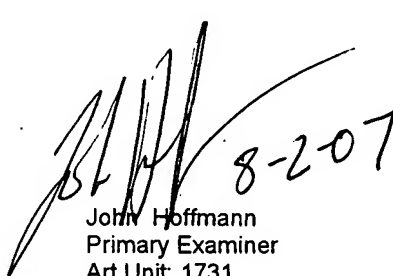
**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

The Appeal Brief filed on 05 July 2007 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.  
**EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☒ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☒ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☒ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☒ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.

  
John Hoffmann  
Primary Examiner  
Art Unit: 1731

Continuation of 10. Other (including any explanation in support of the above items): As to item 1 - the 37 CFR 41.37c)(1)(ii) statement is improperly narrow because it is limited to things "currently pending" and fails to refer to all items - such as judicial proceedings. As to item 5) the second grounds is not "and further in view of" Jensen see page 4 of the final rejection for the actual grounds of rejection. As to 6) claims argued as a group need to be placed in a heading or subheading which identifies the claims by number. None of the headings/subheadings refer to claim 12 - for example. As to 7) for example claim 14, line 5 has an "a" at the end; it is clear that such was deleted in the last amendment. As to 8) for example Applicant relies on Webster's Dictionary (see page 13 of Brief). Applicant is reminded that evidence cannot be added after filing an appeal (37CFR41.33). It is noted all of the above are merely examples - it is not intended to be an exhaustive list: the burden is on appellant to review the entire Brief for compliance with all requirements.

It is requested that applicant double check the sheet margins and the facsimile number used. The Office's copy of the brief has material within the upper margin, and much of applicant's page numbering is chopped off. The certification of transmission does not appear to be proper because 1) it fails to identify the phone number to which it was transmitted and 2) it fails to identify whose signature is utilized. See MPEP 512.

Applicant is reminded that the Office no longer holds drawing objections in abeyance - and there is an outstanding drawing objection that has not been corrected or petitioned. A drawing objection is generally not an appealable matter. The notice of appeal does not negate the time period set in the final rejection - with regards to the drawing objection..